



6560-50-P

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Parts 52 and 81**

**[EPA-R04-OAR-2012-0323; FRL-9948-68-Region 4]**

#### **Air Plan Approval and Air Quality Designation; TN; Redesignation of the Sullivan County**

#### **Lead Nonattainment Area to Attainment**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** On July 15, 2015, the State of Tennessee, through the Tennessee Department of Environment and Conservation (TDEC), submitted a request for the Environmental Protection Agency (EPA) to redesignate the Bristol, Tennessee 2008 lead nonattainment area (hereafter referred to as the “Bristol Area” or the “Area”) to attainment for the 2008 lead National Ambient Air Quality Standards (NAAQS) and an associated State Implementation Plan (SIP) revision containing a maintenance plan and a reasonably available control measures (RACM) determination for the Area. EPA is taking the following separate final actions related to the July 15, 2015, redesignation request and SIP revision: determining that the Bristol Area is continuing to attain the 2008 lead NAAQS; approving and incorporating into the SIP the State’s plan for maintaining attainment of the 2008 lead standard; approving and incorporating into the SIP the State’s RACM determination; and redesignating the Bristol Area to attainment for the 2008 lead NAAQS.

**DATES:** This rule will be effective [insert date 30 days after date of publication in the Federal Register].

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2012-0323. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Sean Lakeman of the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Mr. Lakeman may be reached by phone at (404) 562-9043 or via electronic mail at [lakeman.sean@epa.gov](mailto:lakeman.sean@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On November 12, 2008, EPA promulgated a revised primary and secondary lead NAAQS of 0.15 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ). *See* 73 FR 66964. Under EPA's regulations at 40

CFR part 50, the 2008 lead NAAQS are met when the maximum arithmetic 3-month mean concentration for a 3-year period, as determined in accordance with appendix R of 40 CFR part 50, is less than or equal to  $0.15 \mu\text{g}/\text{m}^3$ . *See* 40 CFR 50.16. Ambient air quality monitoring data for the 3-year period must meet a data completeness requirement.

EPA designated the Bristol Area as a nonattainment area for the 2008 lead NAAQS on November 22, 2010 (effective December 31, 2010), using 2007-2009 ambient air quality data. *See* 75 FR 71033. This established an attainment date five years after the December 31, 2010, effective date for the 2008 lead nonattainment designations pursuant to CAA section 172(a)(2)(A). Therefore, the Bristol Area's attainment date is December 31, 2015. EPA determined that Tennessee had attained the 2008 lead NAAQS prior to the attainment date and issued a Clean Data Determination on August 29, 2012 (77 FR 52232).

In a notice of proposed rulemaking (NPRM) published on April 26, 2016 (81 FR 24536), EPA proposed to approve four separate but related actions: (1) to approve Tennessee's RACM determination for the Bristol Area pursuant to Clean Air Act (CAA or Act) section 172(c)(1) into the SIP; (2) to determine that the Area is continuing to attain the 2008 lead NAAQS; (3) to approve Tennessee's maintenance plan for maintaining the 2008 lead NAAQS in the Area into the SIP; and (4) to redesignate the Area. No comments were received on the April 26, 2016, proposed rulemaking. The details of Tennessee's submittal and the rationale for EPA's actions are further explained in the NPRM. *See* 81 FR 24536 (April 26, 2016).

## **II. What are the Effects of These Actions?**

Approval of Tennessee's redesignation request changes the legal designation of the Bristol Area, found at 40 CFR 81.343, from nonattainment to attainment for the 2008 lead

NAAQS. Approval of Tennessee's associated SIP revision also incorporates a plan into the SIP for maintaining the 2008 lead NAAQS in the Sullivan County (Bristol Area), Tennessee, through 2025 and a RACM determination for the Area.

### **III. Final Action**

EPA is taking a number of final actions regarding Tennessee's July 15, 2015, request to redesignate the Bristol Area to attainment and associated SIP revision. First, EPA is determining that the State's Subpart 1 RACM determination for the Area meets the requirements of CAA section 172(c)(1) and incorporating this RACM determination into the SIP.

Second, EPA is determining, based upon review of quality-assured and certified ambient monitoring data for the 2012-2014 period and upon review of preliminary data in Air Quality System for 2015, that the Area continues to attain the 2008 lead NAAQS following EPA's August 29, 2012, determination of attainment.

Third, EPA is approving the maintenance plan for the Area and incorporating it into the SIP.

Fourth, EPA is approving Tennessee's request for redesignation of the Area from nonattainment to attainment for the 2008 lead NAAQS. As mentioned above, approval of the redesignation request changes the official designation of the Bristol Area from nonattainment to attainment for the 2008 lead NAAQS.

### **IV. Statutory and Executive Order Reviews**

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed

by state law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, these actions merely approve state law as meeting federal requirements and do not impose additional requirements beyond those imposed by State law. For that reason, these proposed actions:

- Are not significant regulatory actions subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Are not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Will not have disproportionate human health or environmental effects under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after

it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

## **List of Subjects**

### *40 CFR Part 52*

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Lead, Reporting and recordkeeping requirements.

### *40 CFR Part 81*

Environmental protection, Air pollution control.

Dated: June 22, 2016.

Heather McTeer Toney,  
Regional Administrator,  
Region 4.



40 CFR part 52 is amended as follows:

## **PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42.U.S.C. 7401 *et seq.*

### **Subpart RR - Tennessee**

2. In §52.2220, the table in paragraph (e) is amended by adding the entry “2008 Lead Maintenance Plan for the Bristol Area” at the end of the table to read as follows:

#### **§52.2220 Identification of plan.**

\* \* \* \* \*

(e) \* \* \*

EPA-Approved Tennessee Non-Regulatory Provisions

| Name of non-regulatory SIP provision            | Applicable geographic or nonattainment area | State effective date | EPA approval date  | Explanation |
|---|---|----------------------|--|-------------|
| **  | **  | **                   | *  |             |
| 2008 Lead Maintenance Plan for the Bristol Area | Bristol Area                                | 7/10/2015            | [insert the date of publication in the Federal Register]<br>[insert Federal Register citation] |             |

## **PART 81--DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES**

3. The authority citation for part 81 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

### **Subpart C—Section 107 Attainment Status Designations**

4. In §81.343, the table entitled “Tennessee--2008 Lead NAAQS” is amended by revising the entry “Bristol, TN:” to read as follows:

**§81.343 Tennessee.**

\* \* \* \* \*

Tennessee--2008 Lead NAAQS

| Designated area  | Designation for the 2008 NAAQS <sup>a</sup>                     |            |
|--|---|------------|
|  | Date <sup>1</sup>   | Type       |
| Bristol, TN:   |   |            |
| Sullivan County (part)   | <b>[insert the date of publication in the Federal Register]</b> | Attainment |
| Area is bounded by a 1.25 km radius surrounding the UTM coordinates 4042923 meters E, 386267 meters N, Zone 17, which surrounds the Exide Technologies Facility. |   |            |
| ****   | **  | *          |

<sup>a</sup> Includes Indian Country in each county or area, except as otherwise specified.

<sup>1</sup> December 31, 2011 unless otherwise noted.

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